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PATENT

Our Docket: P41 9380

07 MAR 1994

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Harpold et al.

Serial No. 07/938,154

Filed: November 30, 1992

For: HUMAN NEURONAL NICOTINIC
ACETYLCHOLINE RECEPTOR
COMPOSITIONS AND METHODS

Legal Staff

International Division

I hereby certify that this correspondence is being deposited
with the United States Postal Service as first class mail in an
envelope addressed to: Commissioner of Patents and Trade
marks, Washington, D. C. 20231, on 8/6/93

BY: *[Signature]*

Stephen E. Baizer Reg. No. 31,192

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Date of Signature

SEP 1 1993

OFFICE OF PETITIONS
A/C PATENTS

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Attention: Office of the Assistant Commissioner for Patents

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
UNAVOIDABLY ABANDONED UNDER 37 CFR 1.137(a)

Sir:

This is a petition to revive the above-identified
application as unavoidably abandoned.

This application derives from PCT/US91/02311 (filed
April 3, 1991). Applicants timely filed, via Express Mail, all
papers necessary to enter the national phase, on November 30,
1992, (copies provided herewith as Exhibit 1). A copy of the
International Application as filed was not provided at that time
as it was not required, since the International Application was
filed with the United States Receiving Office (RO/US).

The Notice of Incomplete Application, mailed July 16,
1993, (copy provided herewith as Exhibit 2) asserts that a
drawing of Figure 9 described in the specification is required.
The application provided to the USPTO by the International Bureau
of WIPO is respectfully submitted to be complete. Whereas the
originally filed application had 3 sheets labelled "Figure 9(a)",

See Paper #3

"Figure 9(b)" and "Figure 9(c)", respectively (copies provided herewith as Exhibit 3), the PCT document provided by the International Bureau of WIPO contains five sheets, which correlate to the original sheets of drawings as follows:

<u>Original Figure</u>	<u>Substitute Sheet No.</u>
9(a)	9a-1 and 9a-2
9(b)	9b-1 and 9b-2
9(c)	9c

Copies of the 5 substitute sheets referred to above are provided herewith as Exhibit 4. It is clear that substitute sheets 9a-1 and 9a-2 collectively contain the same sequence information as originally presented on one sheet as Figure 9(a). Similarly, substitute sheets 9b-1 and 9b-2 contain the same sequence information as originally presented on one sheet as Figure 9(b). In similar fashion, original Figure 8, wherein the top half of the Figure is labelled "Section A" and the bottom half labelled "Section B", became two sheets, "Figure 8A" and "Figure 8B" upon submission of substitute sheets containing the drawings in a form which satisfied all formality requirements.

With respect to the further indication on the "Notice to File Missing Parts of Application" (copy provided herewith as Exhibit 5) the oath or declaration does not cover items required on "Notice of Incomplete Application", the alleged insufficiency is not understood. At the time the oath/declaration was executed by the inventors, the application had not yet entered the national phase in the U.S. Thus, the filing date and serial number for this application was not known at that time. Accordingly, the oath/declaration referred to both the PCT application from which it is derived (see page 1 of the Declaration; Exhibit 6) and the Serial No. of the U.S. priority document from which the PCT application claims priority (see pages 2 and 3 of the Declaration; Exhibit 6).

It is respectfully submitted that the declaration submitted at the time the request to begin national stage proceedings was filed fully complies with 37 C.F.R. 1.63.


In view of the timely submitted documentation provided in connection with the entry of this application into the national stage in the U.S., it is respectfully submitted that Applicants are entitled to the filing date of November 30, 1992, the date all required documents were submitted to the PTO.

In view of the above remarks, withdrawal of the "Notice of Incomplete Application" and prompt initiation of prosecution of the above-identified application on the merits is respectfully requested.

In view of the fact that Applicants timely complied with all requirements for entry into the national phase in the United States, it is respectfully requested that the petition fee of \$130.00 provided herewith be refunded. Please credit such refund to Deposit Account No. 16-2460.

8/6/93
Date

Respectfully submitted,



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Facsimile: (619) 546-9392

Pretty, Schroeder, Brueggemann & Clark
444 South Flower Street, Suite 2000
Los Angeles, California 90071

Exhibit 1

SIBIA 11/30/92 51247 PHW/dcs
Harpold, etal. - "Human Neuronal Nicotinic Acethylcholine
Receptor Compositions and Methods of Employing Same".
U.S. Stage of PCT/US91/02311
Transmittal Letter (2 sheets); Combined Declation & Power of
Attorney (3 sheets); Recordation form cover sheet with
Assignment (4 sheets); Amendment of Claims under Art. 41.;
Check - \$880.00/Filing Fee.

Hon. Commissioner of Patents and Trademarks

Sir:

Please acknowledge receipt of the above identified documents by
applying the Patent and Trademark Office receipt hereto and mailing this
card.

Respectfully,

FITCH, EVEN, TABIN & FLANNERY

File in 51247
Harpold

SIBIA 11/30/92 51247 PHW/dcs
Harpold, et al. - "Human Neuronal Nicotinic Acetylcholine
Receptor Compositions and Methods of Employing Same".
U.S. Stage of PCT/US91/02311
Transmittal Letter (2 sheets); Combined Declaration & Power of
Attorney 37 CFR 1.53 (1 sheet); form cover sheet with
Assignment (1 sheet); Amendment of Claims under Art. 41.;
Check - \$350.00 filing fee.

07/938154

Hon. Commissioner of Patents and Trademarks

Sir:

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30 NOV 1992

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card.

Respectfully,

FITCH, EVEN, TABIN & FLANNERY